Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

Volume 33, n°7
1er novembre 2011 | November 1st 2011

QUID NOVI

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Montréal, Québec H2A 1X1

http://quid.mcgill.ca/

WHAT'S INSIDE?
QUEL EST LE CONTENU?

WANT TO TALK?
TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre pour l'article. L'article ne sera publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction.

Contributions should preferably be submitted as a **.doc** attachment (and not, for instance, a ".docx.").

Co-Editor-in-Chief

AMANDA PETRAKIS

L'HOMME RAISONNABLE N'ÉTERNUE PAS

J'aimerais partager avec vous, chers lecteurs du Quid Novi, une petite trouvaille que j'ai faite dernièrement et qui m'a éclairée – quoique partiellement – sur une question qui faisait longtemps ruminer ma cervelle. Le sujet est délicat à aborder… Cela consiste à vous révéler que je souffre d'un syndrome, en fait. Donc, je vous prie de ne pas me juger trop et, surtout, de ne pas rire.

Nous sommes 18 à 35% de la population qui « souffrons » du réflexe photo-sternuatoire[1]. Non, vous ne vous êtes pas trompés dans la lecture de la phrase précédente : j'ai bien écrit « réflexe photo-sternuatoire ». Voici quelques questions qui vous situeront peut-être dans ce pourcentage de personnes souffrantes :

1- Éternuez-vous lorsque vous sortez d'un immeuble lors d'une journée ensoleillée?
2- Si oui, est-ce que cela vous arrive à chaque fois et alors vous anticipez l'éternuement maintenant à chaque sortie?
3- Êtes-vous toujours sentis mieux après une bonne sternutation lorsqu'il faisait soleil?

Si vous répondez « oui » à ces questions, c'est que vous êtes comme moi! Selon un dictionnaire vulgarisé médical en ligne, votre syndrome se résume de la façon suivante : « a disorder characterized by nearly uncontrollable paroxysms of sneezing provoked in a reflex fashion by the sudden exposure of a dark-adapted subject to intensely bright light, usually to brilliant sunlight.»[2] En effet, dépendamment de la personne, 2 à 3 sternutations suffisent, mais il pourrait qu'une personne éternue jusqu'à 40 fois!

Le coupable de cet embarras est un gène, bien entendu! Le gène du réflexe photo-sternuatoire est dominant, c'est-à-dire qu'une seule copie de la mutation (un allèle) dans une paire de chromosomes suffit pour que le syndrome se manifeste. Le risque de transmission à sa progéniture est alors de 50%.

Malheureusement, la génétique ne nous aide toujours pas à comprendre le « pourquoi » ou, en d'autres mots, ce que le gène responsable du ACHOO (je ne vous taquine pas, une publication de l'année 1978 a baptisé le syndrome d'« **A**utosomal-dominant **C**ompelling **H**elio-**O**phthalmic **O**utburst syndrome » pour donner l'acronyme ci-dessus) exprime physiologiquement, le mécanisme provoquant l'éternuement en tant que tel.

Un des premiers à accoucher d'une hypothèse était Aristote dans le livre XXXIII de Problèmes. Il a soutenu que la chaleur sur le nez était responsable de la sternutation. Une réfutation partielle de cet effort louable de la part d'Aristote est arrivée au début du 17e siècle : le philosophe anglais Francis Bacon, en sortant d'un espace sombre avec les yeux fermés, n'a pas éternué. Cependant, les hypothèses avancées par Bacon n'étaient pas plus justes. En tant que jeune fille curieuse qui essayait de trouver une explication à tous les phénomènes observés autour d'elle, j'étais convaincue que le réflexe était une sorte d'adaptation de l'homme de Cro-Magnon, sa manière de dégager ses voies respiratoires à la sortie de sa caverne afin de mieux respirer… (On ne pourrait dire de moi que je n'étais pas d'une créativité sublime.) De sa part, la science contemporaine n'a pas eu son moment « Euréka! » non plus. Cependant, la plupart des neurologues aujourd'hui émettent l'hypothèse que le nerf trijumeau, celui qui transmet l'influx nerveux provoquant l'éternuement lorsqu'un agent étranger irrite le nez, est tout près du nerf optique dans le cerveau. En conséquence, un influx nerveux engendré par une luminosité puissante déclencherait un influx nerveux dans le nerf trijumeau également. Pour les esprits imaginatifs, cette explication est un peu décevante.

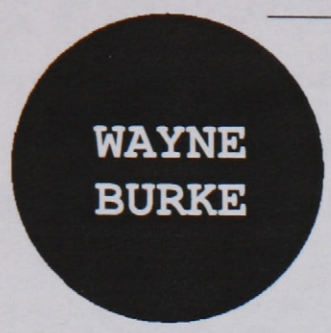
Tout de même, on pourrait s'imaginer des conséquences légales du ACHOO qui sont très farfelues! Imaginez une personne qui souffre d'ACHOO et qui, pour satisfaire le picotement dans son nez, doit éternuer 40 fois. Que se passerait-il si cette personne était au volant et qu'elle émergeait d'un long tunnel ténébreux? Est-ce que sa déficience l'exonérait de sa responsabilité si elle provoquait un accident routier? Souvenons-nous des mots de Viger dans notre cours de responsabilité extra-contractuelle : « Les tribunaux décident en effet constamment qu'un individu qui est à même de connaître ses déficiences physiques doit 'mesurer ses entreprises à ses capacités' et qu'il ne saurait par conséquent, sans commettre une imprudence, se livrer à certaines activités parfaitement licites pour un homme bien portant, mais que son infirmité risque d'entraver ou de rendre dangereuse pour lui-même ou pour autrui. »[3] C'est une question fort intéressante, n'est-ce pas?

Pour l'instant, il est beaucoup plus probable que le souffrant soit plus une source de nuisance : il devient presque impossible de prendre une photo extérieure de groupe avec nous .

Source principale
Karen Schrock, *Looking at the Sun Can Trigger a Sneeze: For some people, bright lights mean big sneezes*, January 10, 2008, in "Scientific American", <www.scientificamerican.com/article.cfm?id=looking-at-the-sun-can-trigger-a-sneeze>.

1. "photic sneeze reflex", <medterms.com>.
2. Roberta A. Pagon, *Why does bright light cause some people to sneeze?* , November 18, 2002 in "Scientific American", <www.scientificamerican.com/article.cfm?id=why-does-bright-light-cau>.
3. G. Viney, *Les conditions de la responsabilité*, 3d ed. (Paris : L.G.D.J., 2006) at p. 407.

Law II



DOES MY OPINION MATTER TO YOU?

Whereas, I still believe that a majority of students at my school support liberal democratic ideals including respect for minorities, freedom of expression, and freedom of conscience.

Whereas, there is an obviously contentious issue being passionately debated by well-meaning and honourable parties on many sides within the association and community of students in our Faculty of Law at McGill.

Whereas, the issue of supporting a worker's strike is wholly separate from the decision to force the adoption of a political statement in the name of an entire body which contains strong voices on both sides of the debate.

I propose a referendum.

I proposed this referendum as an amendment to the motion before the LSA AGM on October 19th 2011. At that moment, an open-minded young man who had just made a strong point passionately supporting the passing of the motion, turned around and asked me, in what seemed to be genuine interest, whether or not we could mobilize a referendum in a timely manner. Unfortunately before we could answer that question, the vote had begun.

Is there anything wrong with taking a few days to try to build consensus and create as many opportunities as possible to hear the voices of all members?

Consensus building and the creation of multiple avenues for soliciting opinion may well have cost some delay; however, this cost would have come with great benefits. These actions could serve to coalesce support and achieve greater clarity on the opinion of the entire membership. Such action would probably build support for the pro-MUNACA side of the debate (since prima facie it looks like this side may have more support—or at least more engaged and conspicuous support). This would also significantly reduce the number of voices that might otherwise complain that they had no opportunity to weigh in (yes there was an AGM vote, but imagine how much more effectively you could rebut the objection of absent members if there were also a referendum, a publicity campaign, several e-mails, etc. With the inclusion of these additional avenues for input, how legitimate would a complaint for under-inclusiveness be?).

I have not decided where I fall in the debate over MUNACA but I am quite clear where I side in the debate over this motion, which was supported by a simple majority of a quorum of members just over the 5% minimum.

This motion puts out a political statement on an issue that impacts the LSA membership in many ways and over which the membership is strongly divided. No matter which side I fall on I am not willing to say that the opinion of a significant portion of my colleagues does not matter as much as the plight of MUNACA workers and my interest in supporting them through a statement by the LSA. I am not willing to say that the LSA, which those opposed to this motion help to fund and which represents them, should take a political position they do not support on this issue.

Should I fall on the MUNACA side there are a number of things I can do to support that cause: I can express myself by promoting the cause with a sign on my locker, a t-shirt on my back, or a button on my coat. I can also write articles of support in the Quid and elsewhere, donate money to the cause, and inform and maybe inspire my peers to join me in support of the cause, I can walk the picket lines, organize a coalition of support, and can organize a student strike in solidarity with the workers. The possibilities are endless.

Please notice that the above-mentioned actions do not force anyone else to subscribe to my personal opinions. If my opinion crystallizes in favour of supporting MUNACA (which it may well, in no small part thanks to the passion of my colleagues which has called attention to the issue) then there are many actions I can take personally and in conjunction with like-minded individuals. But what I am not willing to do is undermine my own principled position in support of the rights of individuals, including minorities, to decide freely which side of this debate they will support.

McGill Law students are a passionate group and that is laudable. But we must also be a rational group and recognize the distinction between supporting MUNACA and forcing a statement of support for MUNACA from the LSA, which is made up of and funded by a significant portion of members not in support of this action.

We must also be a respectful group and be sensitive to the interests of minorities. Oppression of a minority in the interests of supporting another arguably disadvantaged group seems obviously at odds with the ideals that I am certain many of us aspire to. I would go so far as to posit that this kind of zero sum politicking contributes to and exacerbates the underlying issue.

As students of law, we have a responsibility to consider not only the existing legal structures and how we can employ them to support our own causes, but also to

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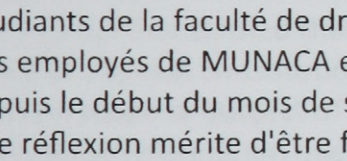
consider the legitimacy of these institutions. I submit that we should be considering whether and how to strengthen that legitimacy and how to protect minority groups governed and represented by these institutions.

Once again I ask you to consider: whose opinion should influence the stated policy of the LSA and how far should we go to ascertain their opinion? While I heard about this motion over lunch from a colleague, and was able to cast a ballot, many of my colleagues heard about it after the motion had passed.

There are obvious questions of values in these two related debates. My goal in writing about the debate over the LSA's position and the freedom of members to choose their positions is to bring up some of the questions that may not have been considered by the admirably passionate members who organized in support of MUNACA. For instance, do we care if a portion of our members does not support one side of a contentious political debate? What proportion of our membership needs to be opposed to a political position to make it significantly contentious and thereby unfair to co-opt their voices on said political issue? What are we willing to do to bring them into a solution which a wider body can support? Is it so important that the association supports this cause that we are willing to override significant dissent and accept the associated divisiveness?

Thanks for considering my opinions; I would be happy to return the courtesy.

Law II



L'AED APPUIE MUNACA

Suite à la dernière prise de position des étudiants de la faculté de droit en faveur des employés de MUNACA en grève depuis le début du mois de septembre, une réflexion mérite d'être faite. À la dernière assemblée générale des étudiants, un nombre record de participants étaient présents, et une des résolutions adoptées appuie les employés de MUNACA dans leur conflit avec l'université. Ce qui étonne, c'est que cette résolution revient à poursuivre les proverbiaux deux lièvres. Ce faisant, la crédibilité des revendications étudiantes s'en trouve diminuée.

La résolution poursuit des objectifs opposés : appuyer une partie dans le conflit de travail et, en même temps, appuyer une résolution du conflit. Il va de soi que soutenir une partie dans un conflit revient à lui dire qu'il a raison et qu'il a notre support dans la continuation de son combat. Comment peut-on, d'une part, encourager une partie dans le conflit, et en même temps souhaiter une résolution rapide au conflit ? Un règlement demandera évidemment aux deux côtés de faire des compromis.

«BE IT FURTHER RESOLVED THAT, the LSA Executive be mandated to encourage its members to support the strike and resolution of the conflict;»

Il est difficile de s'expliquer comment les membres de l'exécutif de l'association étudiante sont censés d'une part encourager ses membres à appuyer la grève (un arrêt de travail !) et d'autre part les encourager à appuyer la résolution du conflit de travail.

En plus de comporter une contradiction importante en ce qui concerne son contenu, la résolution surprend en cela qu'elle fait de l'association un instrument de militantisme. Plutôt que de laisser aux individus le soin de manifester en leur nom personnel, comme pour n'importe quelle autre cause sociale, politique, ou religieuse, c'est par le biais de l'association étudiante que la résolution propose que le support aux employés en grève doive être mis en place.

«BE IT FURTHER RESOLVED THAT, the LSA encourage students to take action in solidarity with MUNACA, including but not limited to, participating in the picket line and distributing informational materials in support of MUNACA.»
Si les étudiants ne font pas partie du conflit de travail, pourquoi l'association étudiante devrait-elle prendre position pour une partie plutôt que l'autre ? Surtout, si une position doit être prise, en conformité avec le mandat de l'association étudiante, ce devrait être en ligne avec les intérêts des étudiants. Or, l'intérêt des étudiants réside dans une résolution du conflit de travail, non pas un encourage-

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ment à l'un ou l'autre des deux côtés dans la continuation du conflit. Comme elle va au-delà d'une prise de position en faveur d'une résolution du conflit, la prise de position de la part de l'association étudiante semble inappropriée.

La majorité a parlé, me dira-t-on. On peut cependant se demander si l'association étudiante et les membres de l'exécutif doivent vraiment recevoir n'importe quel mandat sur n'importe quelle question, dès qu'une majorité d'étudiants présents à une assemblée générale le désirent. La justification « Vous allez faire ce qu'on vous dit de faire parce qu'on est une majorité ici ! » devrait probablement être contrebalancée par une définition plus stricte du mandat de l'association et de son conseil exécutif, un peu comme le fait une Constitution relativement aux lois votées par le Parlement. Sinon, l'association étudiante risquera de devenir une tapisserie bigarrée de prises de position allant des questions éthiques, aux questions politiques, religieuses et sociales. À quand le jour où l'association devra prendre position sur la question de l'avortement, sur la question du retour des Nordiques à Québec, sur la question du port du voile religieux ou sur la question de la commission d'enquête dans la construction ?

LEGALEASE ON CKUT - OCTOBER 2011 - EPISODE 26: CRIMES

Broadcasting Law Cast Broadly

Welcome et bienvenue to LegalEase: a monthly Montreal-based and produced radio show on 90.3 FM CKUT. We broadcast law broadly. Le collectif LegalEase est un group des étudiants et étudiantes en droit de la communauté montréalaise. This month the program is entitled "Crimes." Listen to the episode here: http://goo.gl/bv0FU or http://goo.gl/wVnjX

This month's show features a diverse set of programming on the topic of crime. New contributor Mark Phillips conducts an interview on Fetal Alcohol Spectrum Disorder and how it relates to prisoners in the justice system. Garrett Zehr presents a piece on efforts to charge Bush administration officials with war crimes. Host Preeti Dhaliwal revisits some older content on Insite, in light of the new Supreme Court decision that recently came down on the subject. She also offers an update on the MUNACA strike. Finally, Jesse Gutman breaks down the jargon on the Conservative's omnibus crime bill, the Safe Streets and Communities Act. Enjoy!

LegalEase on CKUT 90.3 FM is a radio program broadcast every second Friday of the month at 11am EST. Originally founded by the McGill Legal Information Clinic in 1989, LegalEase is now run by a collective of progressive law students from McGill University. Our weekly radio show deals with legal topics of interest to the community, with the intention of making the law both accessible and engaging. Tune into our show, email us at legalease@ckut.ca, follow us on twitter @LegalEaseCkut or check our website for past programming at http://legaleaseckut.wordpress.com

CHARLIE FELDMAN

BCL / LLB '11

A NOTE ON LSA HISTORY AND PROCEDURAL PROPOSAL

Since the LSA AGM two weeks ago, my Facebook inbox has been filled with LSA-related inquiries. The goal of this article isn't to get into a long discussion of everything stemming out of the AGM; after all, the Quid only has so many pages! My goal is simply to remind everyone of some LSA history and offer a proposal regarding LSA procedure.

To start, it is worth recalling that this is not the first time the LSA has taken a stand on something contentious. In 2007, signatures were collected for an SGM on the proposition "... Que l'AÉD se positionne pour un réinvestissement massif PUBLIC dans le système d'éducation post secondaire".

The proposition was adopted and subsequently challenged before the Judicial Board (Sirota v. Bérubé, 2007 LSAJB 2). The Judicial Board ruled that – in the absence of any real constitutional restrictions on scope or subject of AGM/SGM/referendum questions – the proposition was fair game, noting that « Il est manifestement évident du libellé de la Constitution que les AGE ont la compétence d'adopter des propositions».

The ultimate deicison? « Nous concluons que l'AGE qui a eu lieu le 31 octobre avait bel et bien le droit d'adopter la proposition en litige et nous rejetons la demande de l'annuler ».

What may be the most interesting element of the ruling is the holding that AGM and SGM motions are binding upon neither the Council nor the Executive; only a referendum is binding:

Vu que les référendums sont le moyen principal pour résoudre les questions épineuses qui nécessitent une consultation générale, et que les assemblées générales jouent un rôle résiduaire et exceptionnel avec moins de mesures pour faciliter la participation démocratique et équitable, il est tout à fait raisonnable de supposer que la Constitution ne les octroie le pouvoir de lier l'exécutif.

It then concluded:

Ce genre de proposition, ainsi que toute autre proposition d'une AGE, possède une force persuasive de la plus haute importance. Par contre, il incombe au Conseil exécutif seul la responsabilité de les adopter. Si jamais le Conseil exécutif refuse de donner suite à la volonté des membres de l'AÉD telle qu'exprimée à travers d'un AGE, les membres ont toujours recours à un référendum pour le contraindre.

As such, the Board in the end decided to « DÉCLARE que la résolution adoptée n'a pas de force obligatoire auprès ni du Conseil exécutif ni du Conseil d'administration de l'AÉD, même si elle possède une force persuasive importante ».

The Board also strongly encouraged the LSA to re-write the Constitution in regards to AGMs and SGMs (recall that a different Constitution was in place in 2007). Regrettably, this section was never substantially changed. The relevant provision in the current Constitution reads: "63. The results of a referendum are binding and take precedence over decisions of the LSA Executive or LSA Council," with no similar 'binding' force attached to decisions of an AGM or SGM.

While I'll get to my proposal in a second, there's a related passage to consider from the 2007 ruling:

Le libellé de la Constitution ne laisse aucun doute que ses rédacteurs ont supposé que le référendum, et non l'assemblée générale, serait le moyen principal pour déterminer la volonté des membres et faciliter son expression de façon obligatoire. Les référendums sont assujettis à un régime de contrôle sous surveillance du DGE, alors que le régime de publicité des assemblées générales est nettement moins exigeant. Le seuil minimal de participation aux référendums est plus grand que celui exigé pour les assemblées.

Certainly, we could make AGM and SGM results binding, but I think if we're opening up the Constitution there are other – perhaps preferable – changes to be made in this regard.

I think it may be prudent to limit AGM propositions to those pertaining to the By-Laws and the Constitution (as well as the question of the auditor, which must be raised at the AGM per the current rules). Simply put, students interested in the LSA's inner workings are likely to be at AGMs anyway and the questions are normally straight-forward with little debate needed. For all other questions we could have specific SGMs devoted just to them, so time isn't rushed and there can be thoughtful debate – provided we keep the same notice requirements to the student body as an AGM.

My preference for the SGM model is largely based on the fact that – unlike referendum questions – the SGM allows for great flexibility as amendments can be made. With an SGM there is the opportunity for building consensus on an issue rather than having a rushed debate that becomes more of a numbers and mobilization game (at AGMs), or risking that the wording of a referendum question becomes the issue rather than the subject-matter at hand.

In the way I conceive it (and admittedly

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there are many other approaches possible), an SGM that has worked on an issue can adopt a motion as a nonbinding expression or pass the final wording of a question on to students as a referendum. Furthermore, a provision should be added to the Constitution allowing a vote to simply continue the SGM at a later date, such that signatures for a new SGM needn't be collected if the work of an SGM isn't completed in one session.

While the referendum process remains the gold standard for gauging the views of LSA members on a particular topic (and rightfully so), I think to favor SGMs (as modified above), referendums should require a cooling-off period (possibly even three weeks) prior to any vote after the petition is received, unless they have resulted from an SGM. This allows people to pen Quid articles in support of their position and respond to one another such as to inform the debate instead of rushing to the question ASAP, which is arguably no better than rapid AGM discussion of quite important and nuanced matters. Again, there is always the risk with a referendum that the wording becomes the primary issue – favoring SGMs would also be likely to limit the possibility one would need to re-collect signatures as issues arise and revisions are made to a proposed question.

Certainly, the question remains as regards the scope of AGM/SGM/referendum questions since the Constitution is essentially silent in this regard. If we're opening the Constitution on procedure, it would be wise to have an LSA committee struck to work on this. Indeed, recall that revisions were encouraged by the Judicial Board in 2007, which provided a specific suggestion:

Nous profitons de cette occasion pour recommander fortement que l'AÉD entreprenne un projet de révision des dispositions relatives aux AGE. [...]

En outre, l'AÉD pouvait vouloir considérer l'adoption d'un règlement officiel, possiblement inspiré du règlement adopté l'année passé par l'AÉÉDTC, concernant l'élaboration des « politiques » officielles de l'association.

Rather than risk history repeating, it would be wise to heed the advice of the J-Board and revisit the Constitutional provisions in this regard, particularly now as students are keenly aware of the processes and procedures of the LSA.

Law III

MICHAEL SHORTT

MUNACA HAS LOST THE MORAL HIGH GROUND

McGill's administration is not always easy to love. They're not the moustachioed villains that The Daily enjoys portraying them as, but they can often seem callous and insensitive to the University's higher callings.

That said, recent acts by MUNACA have made me re-evaluate my opinion on the union's right to claim the moral high ground.

I hope that I speak for many of us when I say that picketing a hospital construction site, personal attacks on administrators, and the aggressive attempts to disrupt homecoming are deeply troubling. It is difficult to imagine how the union's leadership could have taken these measures in good faith.

Before going any further, I want to make clear that my beef is with union's leadership. I hope to see our missing colleagues back in the Faculty as soon as possible, and I'm sure they're just as troubled by these acts as we are.

Three Shameful Actions by MUNACA

- Picketing a hospital construction site was disgraceful. Interfering with public works that benefit an entire city in order to advance the private interests of MUNACA is unacceptable and antisocial. Shame on the union leadership for taking a healthcare site hostage.

- Picketing the private homes of senior administrators is uncalled-for and inappropriate. Personal attacks like this verge on thuggery when the family members of McGill administrators get caught in the union's unreasonable crossfire. It boggles my mind that someone in the union leadership thought this was an acceptable strategy.

- Attempts to disrupt McGill homecoming were completely irresponsible and illegitimate in a reasonable society. I think McGill itself put the issue quite well: "This past weekend, MUNACA/PSAC tactics moved from reasonable, civil free speech into threats and vandalism. Pick-

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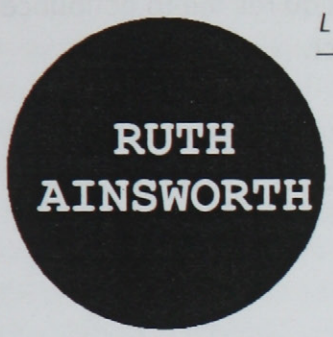
eters tried to disrupt our Homecoming events by defacing Martlet House, hurling insults, swearing and throwing objects at senior administrators, and behaving aggressively and threateningly toward guests, including elderly alumni at the Annual Red and White Dinner. Such actions are unacceptable in a civilized society.

Violence and vandalism are not hallmarks of McGill; they are not part of McGill culture and they have no place in it."

Nor can MUNACA pretend that it is engaged in a David vs. Goliath struggle that would justify such extreme measures. As Brett Hodgins pointed out two Quids ago, MUNACA is hardly a vulnerable and voiceless group. It is a powerful, self-interested organization. In this respect it is much like McGill or any large for-profit corporation. MUNACA is represented by the Public Service Alliance of Canada, one of the country's largest and most influential union groups. Recent events show that the union leadership is not afraid to flex its (literal) muscle in this labour dispute.

MUNACA's move towards illegitimate pressure tactics saddens me. The irresponsible acts outlined above have made me lose faith in the union's leadership. I hope that the MUNACA chiefs will reconsider the path they seem to have chosen. McGill should not need to get injunctions in order to enforce the rules of civilized society.

Law II



MORE THOUGHTS ON THE STRIKE

At the risk of fostering fatigue on this issue, I'm writing again to discuss McGill's ongoing actions in relation to the strike by MUNACA workers, now in its ninth week. I had the opportunity of reading Brett Hodgins' response to my initial contribution to this debate a few weeks ago, and while I'll refrain from commenting on his somewhat ungenerous characterization of my position, he raised some issues I would like to address.

Are McGill support workers an oppressed underclass?

Of course not, and in saying McGill's injunction renders them silent and invisible, I did not imply this. MUNACA workers are a group of educated, articulate and resourceful people - I'm a former member of the union myself and have immense respect for my ex-colleagues. But the existence of starker examples of silencing and invisibility in other contexts doesn't negate the operation of power imbalances in the context of this strike. This is a public relations battle, and the public whose support is being sought is the McGill community – faculty, staff, students, parents, alumni. The effectiveness of each side's ability to convey its message has an important impact on the relative strength of the bargaining parties. I disagree with McGill's insistence that picketing is irrelevant to the resolution of the negotiations. McGill holds a monopoly on direct communication with the most interested members of the public, which it employs to deliver a carefully packaged message. Meanwhile, it has enforced extensive limits on these workers' ability to communicate with us. I find this to be an inappropriate use of power and, as I noted a few weeks ago, a real moral failure in the particular context of a university.

In referring to my article, Mr. Hodgins wrote that as students, we are eager to "seize upon anything remotely reminiscent of oppression." I think it is disingenuous to dismiss the support of his peers for MUNACA as the product of a hyperactive sense of injustice. Furthermore, it is an obviously false dichotomy to imply that one supports unionized action at the expense of non-unionized immigrant farm workers.

As a quick sidenote: Mr. Hodgins compared the median Canadian income to the starting salary of MUNACA members to indicate how good they already have it. I don't happen to think that the content of MUNACA's demands is relevant to the principles at issue, although having studied them I do think they are reasonable. However, Mr. Hodgins' figures are misleading - the median income he listed includes people without income, on social assistance, on pensions, underemployed etc. Median income is not necessarily a reflection of equitable wages.

Is McGill lying?

I don't know. I think they are framing their communications to present a very partial version of the facts, and that in suppressing the other side of the conversation they haven't made it easy to find out the

CONTINUED FROM PREVIOUS PAGE

truth. I get frustrated every time I read an email from Vice Principal DiGrappa or Principal Munroe-Blum. These emails have consistently contained inaccuracies in presenting MUNACA's position (for example, the fictional 30% wage demand). But more importantly, they often contain insinuations and, more recently, serious if vaguely-worded allegations that are highly prejudicial to public perception of MUNACA workers. Munroe-Blum recently accused union members of vandalism and violence: only through concerted research was I able to glean that this apparently referred to stickers pasted to a building, the tossing of flowers, and one person throwing an umbrella to the floor. If McGill has more serious allegations than this, I'm open to hearing about it in specific terms. In the meantime, I'm sure Mr. Hodgins will forgive me if I fail to take the Administration's words at face value.

What is the McGill Community, and who speaks for it?

Munroe-Blum's email of October 18th invoked us – students and other members of the McGill community – to denounce MUNACA's actions. We are McGill, she said, with a tradition of free speech, of civil and respectful discourse. Yet far from sticking to the moral high ground that would allow her to make such denunciations, McGill's Administration is employing corporate, not community-based, tactics to advance its side of this labour dispute – extensive resort to injunctions, smooth and insidious spin. They film and photograph students protesting in support of MUNACA. They've even instituted disciplinary proceedings against students for participating in sit-ins on campus – this despite Article 5(c) of the Handbook on Student Rights and Responsibilities that clearly states that nothing in the Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit free speech. McGill's approach to this strike appears to me to be a policy of silencing and intimidation, an attempt to promote its own message at all costs. I'm sure there are other ways to read these emails and these actions. But I, for one, must say that this Administration's version of the McGill Community does not include me, and my vision of this university requires me to denounce its recent conduct.

Law I

JESSICA MAGONET

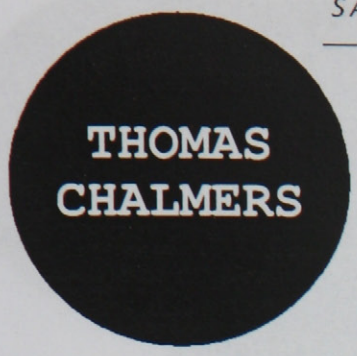
CAMPING

Tequila with lime at sunrise
(sipped furtively from a jam jar)
softens voices
to whispers
light laughter leaves way to the rustling of sleeping bags
and deep sighs of slumber

but then
the sound of salty lips touching
again
and again
the movement of bodies held tight by affection
as they turn and they turn
your small frame forced against the slick tent wall
gentle laughter
you glimpse bright eyes
soft smiles
feel the warmth of their kindled skin

stifle your tears
as he murmurs the sweet nothings you dreamt would be yours
to her

SAO & MUNACA Member



HELLO AGAIN FROM THE RESTRICTED PICKET LINES

We are now in month two of our attempt to be treated with respect and to obtain a collective agreement on par with the rest of the University sector in Quebec. As you may have noticed we haven't been around the Faculty very often these past few weeks which is due to the injunction that has forced us to be creative in getting our message out. Our tour has taken us to Bell HQ, Hydro Quebec, several downtown hotels; we have been on the eastside, westside all around the town. Our creativity will be taxed even further due to subsequent court injunctions; it appears that McGill's administration is attempting to bludgeon us with injunctions. The Labour movement has never relied upon the judicial system to resolve its conflicts; to steal a line from an influential document in the history of Quebec's labour movement and to use it for our local purposes; we will rely upon our own means to resolve our conflicts. We have also been fortunate to rely upon the support of the rest of the university community, for example:

- Professors, who are organising financial support for MUNACA's hardship fund, sending emails to faculty members encouraging them to inform guest lecturers of the labour conflict, bringing up our strike at faculty council, buying strikers the occasional lunch and passing along words of encouragement to those on the picket lines.

- To students who have walked the lines with us, made I Love MUNACA T Shirts, written letters to the Quid and McGill Daily etc, to those who wear MUNACA buttons and especially to Allison who along with a button wore an I Love MUNACA T Shirt as she worked Open House, to those who voted for (and those who did not) a resolution of support at the most recent LSA AGM, to those students that have been the object of McGill's Administration's concerted attack on free speech and also to those who have encouraged us as we walk the lines.

- To friends and family members who have brought us muffins, coffee and moral support as we walked in circles in front of (at least 4 meters away from) university buildings.

- To those from afar that have written to the administration admonishing them for the treatment they have bestowed upon the support staff and demanding that they negotiate a fair settlement in good faith.

- To our brothers and sisters in other unions that have refused to cross our picket lines, sent letters of support and have collected money for our strike fund.

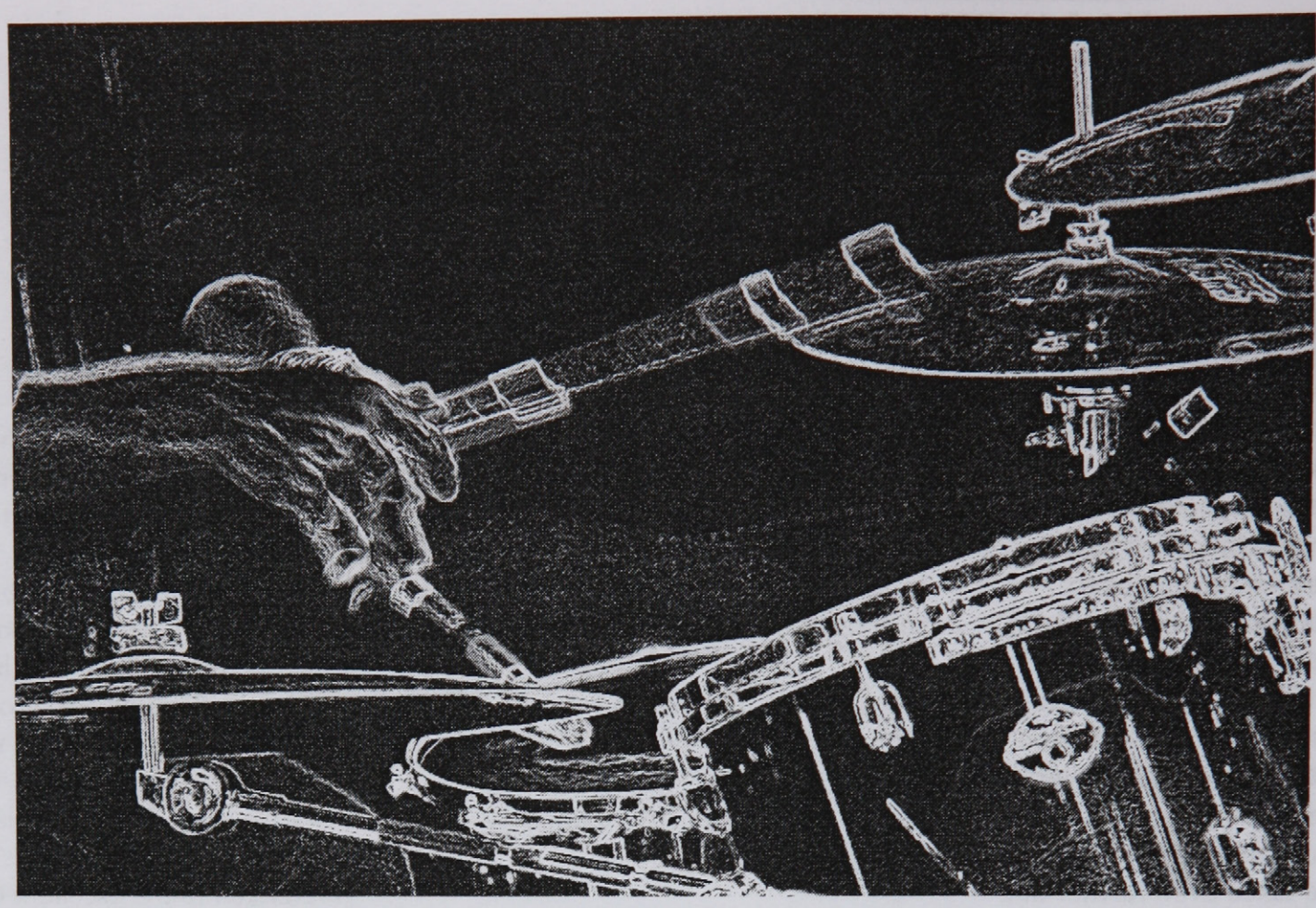
To all these people and many more our sincere gratitude, we are certain with your continued and growing support we will win this battle.

A note from Stephanie Nowak (CDO)
- For weeks I have walked the circles with some familiar faces from the Law Faculty that I, otherwise, never had the pleasure of meeting. It has been extraordinary to be able to learn about the lives of so many outside of our McGill bubble. Notably, the support, smiles, stories and daydreams (let's be honest here, often of alcohol and food) have helped to pass the hours away. A special thank you to my brother, Alex who visits with a coffee or lunch anytime he can, Michelle who keeps me laughing, Thomas, who is now an honorary big brother and the many students whose friendship and kindness has made all the difference. With support like this, I am sure we will all make it through :)

Some people have asked about some of the things that have happened on the picket lines, a strike is a highly charged emotional experience and occasionally a striker will lose control and write a message in chalk on a sidewalk, or throw some flowers or an umbrella at an administrator,
(I refer you to the excellent Commentary in The McGill Daily by François-Xavier Jetté
http://www.mcgilldaily.com/2011/10/actions-speak-louder-than-words/)
however, lost in all this is the fact that strikers have been stepped on, pushed, sworn at and punched by alumni and others as they have walked the picket lines. Heather, who are the real thugs here? And what about the administration's attempt at harassment and intimidation? There are many examples of HMB's tactics, they have been enumerated in the many letters in the McGill Daily and notes posted on the various websites to mention here, but suffice it to say the administration is running amuck with threats and intimation that frankly won't work, their true face is showing through for all to see. Clearly the administration is trying to wear us down but their slimy tactics are not thwarting our enthusiasm. If anything these tactics are feeding our resolve to see this through until we get what we deserve.

Again, thank you to all who have supported us!!

TC on behalf of The Faculty of Law and Gelber Library Support Staff



Law School of ROCK

Ce soir is the night...

Monday
November 21st

Divan Orange
4234 Blvd St-Laurent

$8 pre-sale / $10 à la porte
doors open at 7:30pm
show starts at 8:00pm

LSA AÉD

Divan Orange

Presented by our official partner:

Blakes

Law II

AMANDA GIBEAULT

QUESTIONING ONLY ONE OF THE TWO MOTIONS

Several of my colleagues have called into question the legitimacy and bindingness of the resolution that the LSA support MUNACA. This raised, for a few days at least, fruitful Facebook discussions of how to improve decision-making so it feels more consensus-based, more representative, or in any case somehow more fair. I am all for this kind of discussion and change.

I am concerned with calling a referendum on only the MUNACA question, when there was another political motion, on opposition the proposed tuition hikes, passed identically and immediately before the one now being questioned. It seems that the grounds on which the motion is assailable must be procedural in our democratic structure. If the problem is procedural, than calling into question half the outcome of that procedure is not just strange, it's unsettling.

It's unsettling because of the effects it can have on suppressing minority voices (and I'm not even sure that support for the MUNACA motion is a minority position, but it has been cast as such by one poster on a locker, so let's go with that for a moment). Typically, it can be hard for some views to get through at the AGM. If a group of students mobilizes particularly well, and gathers support from a larger group of students who share this one view, they may get their voice through at the AGM. To then call it into question with a referendum not only has a chilling effect, it offers an escape valve for reasserting a (purported) majority position.

I know many of you have the background in politics to cast this in the liberal democratic terms you may prefer; my background is in epistemology, and in the ways in which social practices affect our knowledge. My main concern is that we are merely telling ourselves we care about this on grounds of problematic procedure, but that what we really care about is getting rid of one resolution we don't like, but want to keep the procedure for those times it works out for us. This is inconsistent (my bugbear) and unfair.

I've heard a number of useful proposal, many of them unsurprisingly coming from Charlie Feldman. I propose that we seek to make a change prospectively, and focus our energy into making sure that when more contentious issues are voted on, we are all behind the process and can't complain afterwards. And I propose that whatever we call into question about this past AGM covers the motion on tuition hikes too.

ANONYME

YES WE ARE ALL MCGILL

En l'honneur de l'inspiration
De notre chère rectrice.

Oui, nous sommes tous McGill.
Nous sommes de cette communauté
Où s'accomplissent de grandes choses.

Nous sommes tous McGill,
Rassemblés autour de valeurs communes,
Chérissant les mêmes idéaux,
De paix, de progrès et de justice.

Nous sommes tous McGill,
Chercheurs, professeurs, étudiants et employés
Sans distinction aucune, sans discrimination.

Nous sommes tous McGill,
Réunis par l'éducation,
Qui ne peut s'acquérir et qui ne s'est acquise
Que par la libre expression et le juste débat.

Mais malheureusement, la tête de notre McGill,
Dont nous formons tous le corps,
Se vautre maintenant dans la répression
Et a perdu ses idéaux qu'elle chérissait tant,

Soyons tous McGill.
Protégeons nos idéaux.

LIBRARY NEWS

LAW LIBRARY

Legal Research Resources

Each year, our library spends a considerable portion of the acquisition budget to pay a subscription to various databases. Unfortunately, some of them can be underused by our students due to the lack of awareness. Beginning from this issue, we will 'showcase' one or two databases in each issue of Library News. In addition to the fee-based databases, we will try to highlight some of the print or free online resources that can help you in your research.

Air & Space Law Research: Aerospace Database

If you are interested in Air & Space law, you may wish to consider using the Aerospace Database. This database provides indexing and abstracts from more than 4,000 current serial and non-serial titles, including content from AIAA and NASA. It currently includes over 3.6M records from periodicals, conference papers, trade journals, magazines, books, patents and technical reports, with indexing back to the early 1960's. Although the main focus of the Aerospace Database is applied research in the aerospace and space sciences, it also contains thousands of articles on Air & Space law.

Air & Space Law Research: John C. Cooper and Eugene Pepin catalogues

The basement of the Law Library houses the card catalogues of the Air & Space law publications (books, articles, government documents) gathered by John C. Cooper and Dr. Eugene Pepin, the first and the second directors of the IASL. Those catalogues represent an invaluable source of information for any researcher interested in the history of the Air & Space law. If you wish to use these catalogues, please ask for assistance at the reference desk.

Legal Research Guides

If you are writing you first legal research paper and do not know where to start, you may find helpful the selection of the Guides and aids for legal research in the Law subject guide. http://www.mcgill.ca/library/library-findinfo/subjects/law/internet/ Here you can find topical guides that will help you to navigate through the research process (e.g. UN research guide).

LSA Tutoring Sessions Location

Since the beginning of October, the LSA tutoring sessions are held in the former "microfilm" room at the ground floor of the Law Library.

In this column, we would be delighted to answer all your library-services-related questions. Please send your questions to Svetlana Kochkina svetlana.kochkina@mcgill.ca, Liaison Librarian Nahum Gelber Law Library.

Law I

LUDOVIC BOURDAGES

L'ÉPILEPTIQUE PARMI LA FOULE

Devant mes paupières tirées par des marionnettistes
passent des gens tous sosies les uns des autres

au milieu des piétons
un homme sans ficelle
convulse
ses neurones crient à l'aide
ses pensées hurlent d'espoir
la foule indifférente piétine sa voix

devant mes conjonctivites rougies par la manipulation
passent des gens qui l'évitent

l'homme se raidit et son souffle faiblit
sa bouche salive des mots sourds
il tremble sous les pas réguliers et assortis
qui écrasent la différence

devant mes yeux percés par les fils
l'homme me tend la main.

GABRIEL DESTREMPE ROCHETTE

L'ACCÈS À LA JUSTICE N'A PAS DE LANGUE

Cette semaine, le premier ministre du Canada a recommandé deux juges de la Cour d'appel de l'Ontario pour remplacer Louise Charron et Ian Binnie comme magistrat à la Cour Surpême du Canada. La première candidate, Andromache Karakatsanis maîtrise trois langues : le grec, le français et l'anglais. On ne peut malheureusement pas en dire autant de son collègue, Michael J. Moldaver, qui est unilingue anglophone. Bien plus qu'une simple lacune linguistique, le fait de ne pas comprendre une des langues officielles en tant que juge à la plus haute cour du pays soulève des questions d'égalité et d'accès à la justice. Revendiquée depuis longtemps par des politiciens comme par des juristes, la nécessité du bilinguisme des juges de la Cour Suprême du Canada vient de prendre un coup cette semaine et ce n'est pas sans rappeler les différents problèmes créés par l'unilinguisme de certains magistrats

Être compris dans sa langue devant un tribunal, en l'espèce la plus haute cour du pays, est un droit fondamental au Canada, qui traduit la volonté d'offrir des procédures judiciaires égales à l'ensemble de la population. Les interprètes, malgré leur travail colossal et l'utilité dont ils font preuve, présentent certains désavantages. Il est en effet reconnu que certaines nuances peuvent se perdre dans la traduction et que les tons émanant d'une partie soient mal rendus. De plus, la traduction instantanée est rapide et certains mots dont la sonorité se ressemblent, peuvent être compris de manière hasardeuse. Ces subtilités peuvent paraître banales, mais elles deviennent essentielles lorsqu'on plaide pour la reconnaissance de ses droits devant la dernière instance, l'instance ultime, du pays. Subséquemment, s'exprimer en français peut mettre une partie en situation de désavantage face à une autre et la qualité du processus judiciaire s'en trouve réduite. Pour assurer une égalité, il ne faut pas qu'un francophone considère comme un privilège le fait de s'exprimer dans sa langue devant les neuf plus hauts magistrats du Canada. Il va donc de soi que ceux qui prennent des décisions influençant, et créant dans une certaine mesure, le droit national, comprennent ce qui est plaidé, et ce, sans avoir recours à un interprète. Que certains juges de la Cour Suprême d'un pays bilingue aient besoin des services d'un interprète remet en cause l'accès égal à la justice des Canadiens francophones par rapport à la majorité anglophone.

De plus, il apparaît fondamental que selon notre tradition bijuridique, les juges qui ont à se pencher sur le droit civil québécois, même si ce n'est pas leur compétence initiale, soient en mesure d'assimiler ses notions et sa jurisprudence dans la langue par laquelle on l'exprime, et ce, sans recourir aux services de traduction.

Le premier ministre Stephen Harper soutient que le juge Moldaver possède tous les critères nécessaires pour occuper le poste et que la langue ne devrait pas venir limiter la sélection de juges compétents. Loin de remettre en question les aptitudes du juge Moldaver en tant que juriste, sa nomination ne peut être soutenue (ses excuses n'y changeront rien!). Malgré tout le respect qu'il est possible d'avoir pour l'homme chevronné qu'est M. Moldaver, le fait qu'il ne parle pas français devrait l'empêcher de siéger à la Cour Suprême. La maîtrise de la langue de Molière devrait devenir une norme au même titre que la compétence juridique.
Il est de plus en plus nécessaire que le bilinguisme devienne un prérequis pour occuper ce poste de juge. Il s'agit déjà d'une convention pour les francophones et jamais dans l'histoire de la Cour un juge ne maîtrisant pas l'anglais n'a été nommé. Il serait plus que désirable que le gouvernement Harper reconnaisse l'égalité des langues officielles et que le critère de les parler et de les comprendre soit reconnu par une loi. Depuis 2006, date de l'élection du premier gouvernement Harper, quatre juges ont été nommés à la plus haute instance du pays (incluant les présentes nominations), dont deux unilingues anglophones. Il est également prévu que le présent gouvernement nommera la majorité des juges de la Cour d'ici la fin de son mandat. Outre les questions qui peuvent être soulevées sur la politisation de l'institution, l'attitude du premier ministre laisse penser que plusieurs de ces juges pourraient être anglophones unilingues, ce qui constitue une menace pour l'accès à la justice et un affront à notre système bijuridique.

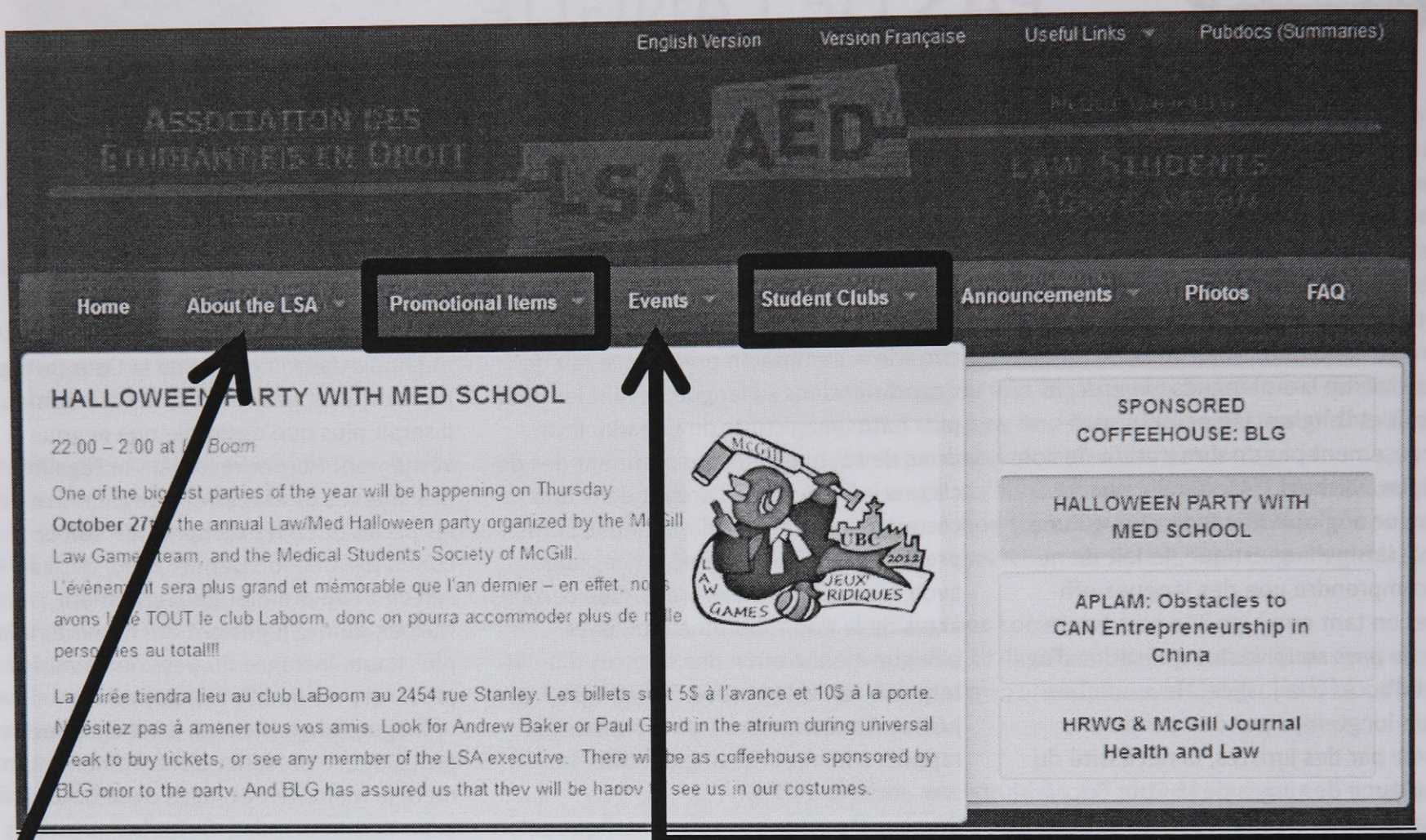
La reconnaissance d'une nécessité légale de bilinguisme pour ceux qui aspirent à la position de juge à la Cour Suprême du Canada serait non seulement une victoire pour les canadiens francophones, mais également pour le respect des minorités, la démocratie et l'idéal de créer un système intelligible pour les justiciables.

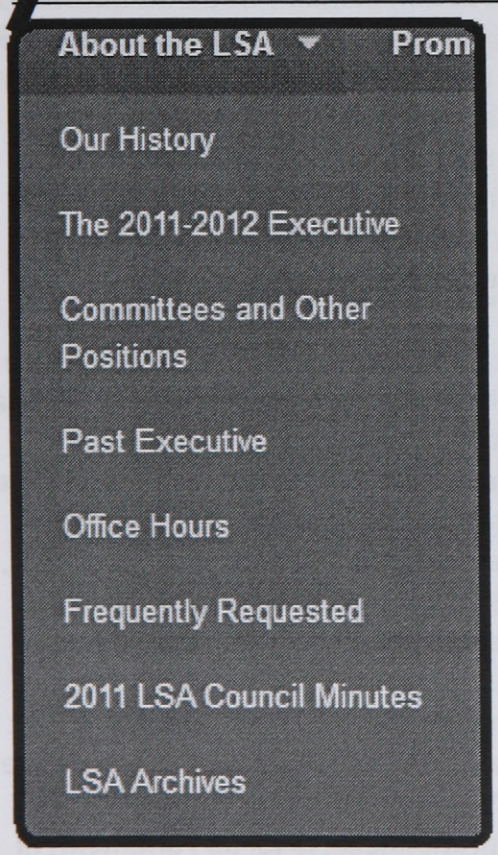
Malheureusement, il manque une petite pièce à Stephen Harper pour résoudre ce puzzle, qui ne nécessite ni modification constitutionnelle, ni loi du Parlement, ni discours, ni politique gouvernementale, ni pression populaire... la volonté.

HOW TO USE THE LSA WEBSITE

for dummies

(www.lsa-aed.ca)





"ABOUT THE LSA":

- Committees and Other Positions: Les membres des Comités de L'AÉD et Facultaire.
- Frequently Requested: Contains many important documents, e.g. *The Bottin, Faculty Directory, Cheque Requisition Form, etc.*
- LSA Archives: Contains decisions from the Judicial Board, the Constitution, etc.

"EVENTS":

- Sondage – Grad Committee: Sondage pour le bal de fin d'année.
- Faculty Traditions: Description of our Faculty's main traditions, such as Law School of Rock/Skit Nite, the Malpractice Cup, the Law Games, etc.

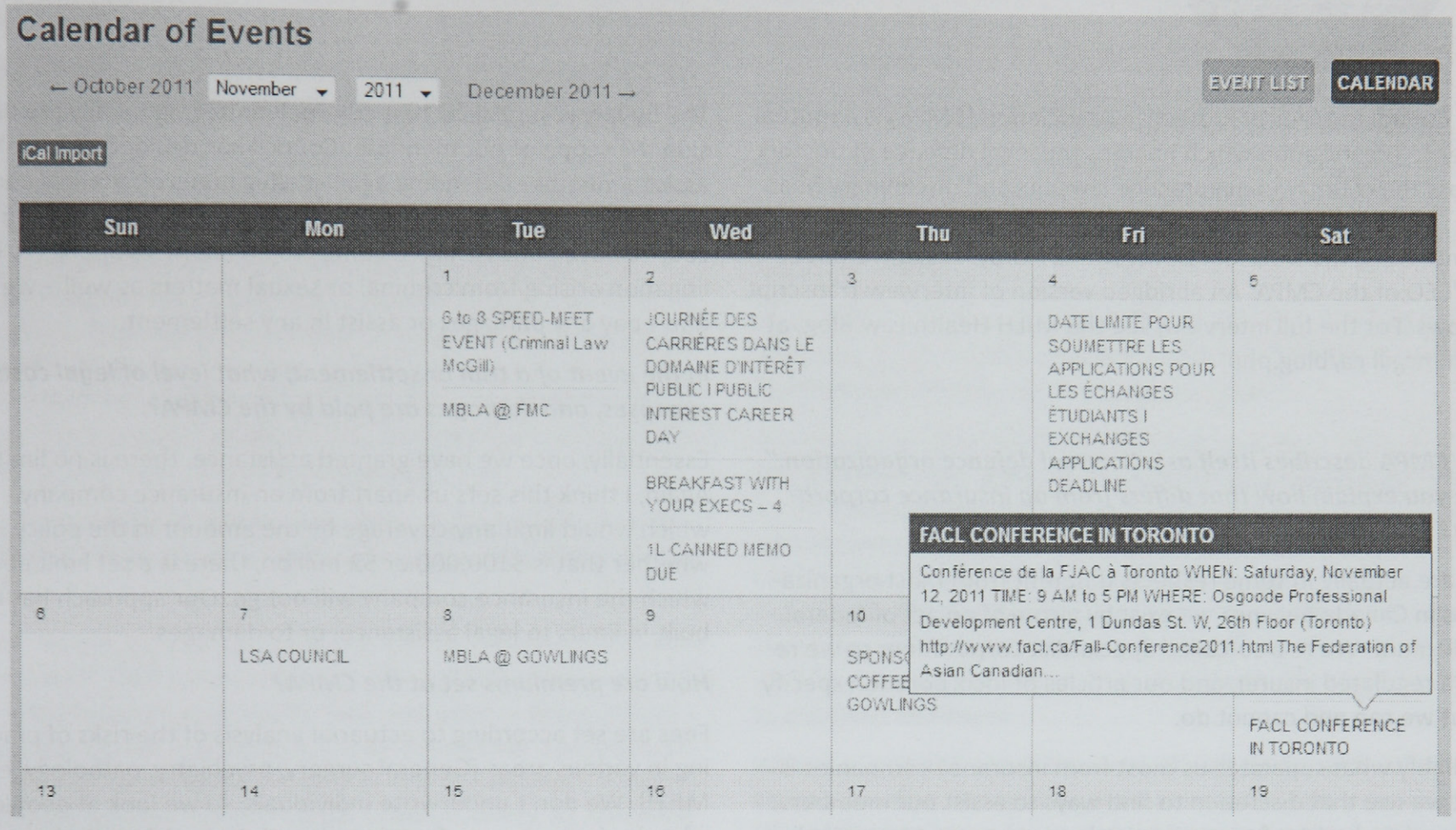
"PROMOTIONAL ITEMS": You can now order Sweatpants & Sweatshirts!

"STUDENT CLUBS": You will find a description of all clubs registered with the LSA, their upcoming events, and information regarding clubs registration.

HOW TO USE THE LSA CALENDAR

for dummies

(http://www.lsa-aed.ca/?cat=3&lang=en&eventDate=2011-10&eventDisplay=month)



- Tous les évènements du mois sont indiqués dans le « Calendar of Events ».
- If you put your mouse over the title of an event, you will get a short description of the event.
- If you CLICK on the Title, you will be brought to the full description of the event.

If you have any comments or suggestions, please send an e-mail to vp-admin.lsa@mail.mcgill.ca
Likewise, if you want your event to be on the LSA Calendar, send an e-mail to your VP Admin and she will make sure to put it up in a timely manner.

ENJOY SURFING THE LSA WEBSITE!

VP - Admin

CAROLINE-ARIANE BERNIER

MCGILL JOURNAL OF LAW & HEALTH

INTERVIEW WITH OUTGOING CMPA CEO DR JOHN GRAY

The Canadian Medical Protective Association (CMPA) is a mutual defense organization which handles the legal defence of doctors across the country in malpractice lawsuits and disciplinary hearings. Dr John Gray is the outgoing head of the CMPA. Several months ago, the MJLH sat down with Dr Gray, Executive Director/CEO of the CMPA. An abridged version of interview transcript follows. For the full interview, see the MJLH Health Law Blog, at mjlh.mcgill.ca/blog.php.

The CMPA describes itself as a "mutual defence organization." Can you explain how that differs from an insurance corporation?

We are actually in some respects different from most organizations in Canada because we exist by virtue of an act of federal parliament. We're a so-called Special Act corporation; so we're not a regulated insurer, and our articles of incorporation specify what we can and cannot do.

Probably what separates us most from insurance companies is that we use that discretion to find ways to assist our members, rather than looking for reasons to deny coverage. Increasingly over the years, as the number of areas that our members practice evolve and change we find very creative ways to come to their assistance.

Obviously we're not for profit, which changes our incentives relative to a commercial insurance company. For instance, we are not motivated to settle cases on an economic basis, simply because it would be cheaper than defending one of our members at trial. We exist to protect the professional integrity of our members, so if we believe a case is defensible, we will defend it regardless of costs.

What sorts of liability coverage does the CMPA provide for its members?

Civil liability for medical matters is covered almost without exception. We also cover a range of college matters, since medical license issues and fitness to practice are obviously very important to our members. We also deal with matters related to hospital privileges, in order to ensure that hospitals take decisions about hospital privileges in ways that are consistent with their by-laws, and in accordance with procedural fairness. We also assist our members with administrative tribunals of different kinds, such as human rights tribunals, or public fatality inquests. There are very few areas where CMPA Council has said that we will not exercise our discretion to assist, or that we will limit it.

The by-law is very clear that criminal matters generally are outside the scope of our mandate. Council has decided that we will assist a member defending against allegations of criminal conduct or sexual impropriety, but if the member is convicted in a court of law, our assistance comes to an end. This applies to civil litigation arising from criminal or sexual matters as well – we don't pay any damages or assist in any settlement.

In the event of a trial or settlement, what level of legal costs, expenses, and damages are paid by the CMPA?

Essentially, once we have granted assistance, there is no limited. Again, I think this sets us apart from an insurance company, which would limit any coverage by the amount in the policy – whether that is $100,000 or $2 million, there is a set limit above which the insurance company will not go. Our approach has no built-in limits to legal assistance, or to damages.

How are premiums set at the CMPA?

Fees are set according to actuarial analysis of the risks of practicing in various areas [General surgery, psychiatry, pathology, etc – MJLH]. We don't underwrite individuals, so we look at people who do similar types of work and pool those risks together to set fees.

With respect to smaller risk pools, why does the CMPA not charge higher premiums to doctors who have experienced previous lawsuits?

Because we're a mutual defence organization. We want to preserve the notion of mutuality, rather than personal experience-rating. Ideally everyone would pay the same fee, but our membership moved us in the direction of practice-base fees and then region-based fees. But that is as far as the CMPA is prepared to go.

Doesn't this approach create a moral hazard though, because doctors do not suffer any consequences for medical malpractice?

One can make that argument. Our members are generally satisfied that on those occasions where someone is perceived as using the services of the CMPA unnecessarily frequently, the hospitals or the regulatory authorities respond to the situation. We don't need to deal with it through our fee structure because the regulatory bodies deal with it through disciplinary hearings or fitness-to-practice hearings.

The reality is that all of us understand that in many cases it's the luck of the draw. Take obstetricians as an example. One obstetrician might have two shoulder dystocias [when delivery of a baby

CONTINUED FROM PREVIOUS PAGE

is obstructed by the baby's shoulders – MJLH] in two years, whereas your colleague might not have any. These are very, very expensive cases, but no one can predict when and where these complications will occur.

Why do doctors fight malpractice lawsuits, given that their premiums will not increase and that the CMPA pays all of their expenses?

There are important personal consequences for physicians that go beyond financial concerns. If a physician loses a medico-legal case, or settles a case out of court, they have to report this to the provincial college and to their hospitals. So it does have consequences. The colleges themselves may initiate investigations on the basis of these reports, and it can affect a physician's ability to move from one jurisdiction to another, or the physician's ability to get hospital privileges. It's also a matter of professional integrity. So it's not all about the money.

Related to professional integrity, what impact, if any, has the CMPA seen from apology legislation such as Ontario's Apology Act?

I think it's too early to say. Canadian jurisdictions were relatively late to enact apology legislation, so the CMPA has been watching this occur in other countries as well, and even in those jurisdictions I don't think that there is any evidence that it prevents litigation. But I don't really believe that was the purpose, either. I believe the purpose was to support patient safety, by removing any barrier between physicians being open and transparent with their patients when an adverse event occurred.

Historically, it was said that physicians were unwilling to discuss adverse events because they were afraid of lawsuits. We think that's a falsehood. We think that when physicians are open and transparent with patients, that leads to the best outcomes for everyone. When an adverse event occurs, it's often not clear what the role of the physician was, and this may not become clear until weeks or months later. But apologies are quite appropriate no matter what. Apology legislation takes another step, by reassuring health professionals that if they apologize in the process of disclosing the adverse event, that apology cannot be taken as evidence of liability. We have not yet seen a case where this has been tested, nor to do I think that we ever will. Proof of negligence is proof of negligence, not whether you apologized!

It seems from what has been said so far that doctors have fairly little input on how a case proceeds. So when deciding whether to settle or defend a case, what factors guide the CMPA's decision? How much input do doctors have?

Well, that's not true. The physicians of course always want to be defended. But what we do is retain experts to comment on the doctor's care. If the doctor's care is supported by experts, and if the doctor wants to be defended – because sometimes physicians will say "I don't want to go through five years of litigation, I want this to be over" – then we will defend them.

But conversely, if the doctor's care is not supported, and the doctor still wants to be defended, we will use our best efforts to convince the doctor that this is a folly. At the end of the day, litigation in some circumstances would just prolong a situation in which a settlement is warranted. It may require frank discussion between the doctor and counsel, and sometimes we will look for additional experts, if the doctor feels that the original expert was wrong. But at the end of the day, most doctors recognize that the experts are who the courts will listen to, and doctors are satisfied that if we cannot find expert support, then the case is not worth defending.

The CMPA has raised the issue of wait times as a potent source of medical liability. Have lawsuits ever been launched against individual doctors on the basis of wait times?

Wait times are often obliquely referred to in statements of claim, and plaintiffs often allege that they have been waiting too long for various procedures or tests. But it is almost unheard of for wait times to be the only issue in a lawsuit. That said, it's not unusual to hear allegations that wait times or delays lead to unnecessary suffering or adverse outcomes. The typical case in which wait times are involved is where a patient's condition deteriorates and the patient alleges that the responsible physician failed to expedite treatment.

We are concerned about the issue of wait times, and we've taken a position on the issue from a medical liability perspective. One of the key issues for us is good communication between specialists and family doctors, so that everyone is aware of the patient's condition, and also the availability of care.

Medical liability lawsuits have been declining over the past decade. What factors does the CMPA believe are behind this?

I wish I knew the answer [laughs]. First of all, it's not unique to Canada. We have observed the same trend in the United Kingdom, Australia, and the United States. And it's not unique to medical liability; we're told that in many forms of professional liability there has been an observable decline. On the medical side, we'd like to think that our efforts and the efforts of others to promote patient safety have contributed to the decline, but that would not explain the decrease in other forms of professional liability, like that for architects. I think the explanation is multi-factorial, and I don't feel that we know enough about it to say for certain.

It may also be coming to an end. In other jurisdictions the frequency is beginning to rise again. We've seen increases in both in the United Kingdom and in Australia, and in some areas of the United States. In Canada, we've seen an uptick in the absolute numbers in the last two years, but when you take in to account the growth in our membership, the rate of lawsuits on a per-member basis is flat. The reality today is that a physician today is half as likely to be sued as he or she was ten years ago.

CONTINUED FROM PREVIOUS PAGE

Some commentators, have criticized the CMPA's approach as "stacking the deck" against plaintiffs by generously funding physicians while their opponents have only their own resources. How would you react to this?

I think there's perhaps some underlying confusion about the source of funding for the CMPA. We are funded exclusively by our members. Our members pay fees to us and that's 100% of our funding.

In the past, a small percentage of every clinical fee was nominally assumed to be included to hedge against liability. The reality was that in the medical liability crisis of the 1980s, the medical associations that negotiate fees for medical services were finding it increasingly difficult to build in a fair and equitable amount of money for liability protection into clinical fees. To return to the example of obstetricians, some of them might be performing 200 to 300 deliveries a year, and others might do primarily gynecology and perform only 20 deliveries a year. By building the liability protection in to the fee code, some physicians would get a windfall if they did not experience any adverse events, while others would be left virtually unprotected.

So what happened across the country was a shift to funding medical defence costs entirely through higher fees paid to the CMPA. That shift was premised on two factors. First of all, there is no source of funding for physicians who provide care outside of the public system, so everyone is paid through Medicare. Secondly, individual physicians have relatively little control over the fees they are paid for their services, since the fee codes are negotiated between the provincial medical associations and the provincial government. So the provincial medical associations decided in the mid 1980s that in lieu of receiving increased fees for their clinical work, they would receive an equivalent amount and use this money to reimburse physicians for the money paid in CMPA fees. That money continues to be negotiated every year with provincial governments, and continues to be given in lieu of money that physicians would have otherwise received directly.

So physicians have chosen to divest, or give up, some portion of their clinical earnings in order to cover this important part of their practice costs. There is a single payer for healthcare in Canada, and physicians have chosen to take some of those payments and set them aside.

Law II

ANDREW BAKER

CARTOON

JONATHAN BROSSEAU-RIOUX

LE CHEMIN DE FER

Le temps est assurément quelque chose de relatif. Par exemple, il y a des chroniques qui sont écrites dans des abribus, au cœur de la nuit, alors que l'un des rares bus à sillonner les rues à cette heure disparaît au loin, laissant un nuage de désespoir. Une heure, c'est court et long à la fois.

Ces chroniques, faut-il croire, manquent cruellement de structure. Et la structure, l'organisation, –et autres synonymes de ces mots, sont les qualités, voir les aptitudes, nécessaires à l'accomplissement d'objectifs visés. Sans eux, il n'y a rien.

Rien.

Il est toujours intéressant de réfléchir à ces concepts, autant à la justice sociale qu'à la morale prise au sens général. D'autant plus dans une chronique. À une exception près : lorsqu'elle est tapée sur un ordinateur de mille dollars, en plein milieu de nulle part, à 3 heures du matin, devant un itinérant complètement saoul qui n'a pas un rond. Rien.

Rien.

Le contact aux autres permet d'en apprendre beaucoup sur nous-mêmes. Pas besoin de creuser bien loin pour comprendre d'où vient ce genre de phrases toutes faites. Elles sont simplettes, ridicules, niaises, mais possèdent leur raison d'être. L'empirique se charge de le démontrer, bien que cela ne se fasse pas toujours en douceur.

Le fait de ne pas désirer ces expériences n'empêche pas qu'elles puissent être enrichissantes. « La jeunesse... la jeunesse... », disent parfois les personnes âgées. Après hésitation entre courage et imbécilité sur son compte, trop souvent, à raison, il faut opter pour le moins joli des deux mots. En revanche, le temps passe. Et les choses changent.

En effet, si une chose est sûre, c'est bien que la volonté est un vecteur de transformation. De transformation dans le temps. Néanmoins, elle requiert un facteur de motivation. Certains, au cours de cet apprentissage, l'on perdu. Et tout ce qui venait avec aussi.

Perdre le Nord, ça veut dire ne pas marcher droit. Avoir bu un litre d'alcool à fiction, ne pas avoir pris sa douche depuis plusieurs semaines, voir des extraterrestres ailés, tous à la fois. Mais aussi, tout simplement, ne pas savoir qui l'on est. Et, peut-être que le premier découle du second.

Car le temps, lui, n'arrête jamais. La vie est un voyage, dans lequel s'arrêter, lutter contre demain, figer le présent, veut aussi dire se déchirer.

Céder à l'angoisse.

Pour tout dire, des angoissés il y en a dans certaines facultés. En droit à McGill, c'est même un prérequis. Les sains d'esprit n'y sont pas acceptés, autant d'un côté de la classe que de l'autre. C'est donc de dire que si éloignés en apparence, l'ivrogne et l'étudiant partagent toutefois d'éminentes ressemblances.

Croyez-moi, je vous le dis. Expérience personnelle vécue à 3 heures du matin.

JÉRÉMY BOULANGER BONNELLY

« NOUS SOMMES TOUS MCGILL » OU LE BÂILLON-PROPAGANDE

Vous aurez peut-être comme moi remarqué le flot incessant de courriels qui nous submergent – et je ne parle pas ici des courriels normaux du LSA, du Notice Board ou de la Faculté. Je parle bien de ces courriels « informatifs » que nous recevons des grands noms de notre université, a.k.a. Michael Di Grappa, Heather Munroe-Blum et les autres.

Au tout début de la grève de MUNACA, ces dépêches semblaient inoffensives, nous avertissant de possibles dérangements dans les services nous étant normalement fournis par les employés de soutien, nous invitant à rapporter ces dérangements et nous assurant que des moyens seraient pris pour y remédier. Jusque-là, j'appréciais ces remarques administratives qui m'indiquaient la marche à suivre dans une situation anormalement instable.

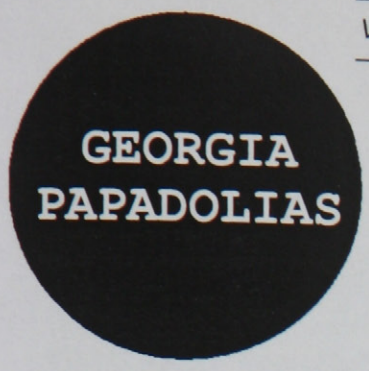
Après près de deux mois et une hausse de la fréquence et de l'intensité des moyens de pression – que l'on soit d'accord avec ceux-ci ou non – il est malheureux de constater un changement profond dans la teneur et le vocabulaire utilisé par nos Officiers de l'Administration Senior. D'avertissements justifiés et utiles, nous en sommes désormais rendus à des messages moralisateurs se basant sur des faits dont les sources et la véracité sont profondément contestables. À grands coups de « We are all McGill™ », j'ai sincèrement l'impression de me faire assommer. L'objectivité protectrice de nos Officiers de la Royal Institution for the Avancement of Learning s'est transformée en subjectivité déguisée derrière un masque d'autorité. Je suis certain que vous n'êtes pas dupes, mais il est probable que sur les 38 000 étudiants que nous sommes, plusieurs prennent cette information comme vraie et avérée. Malheureusement, nous nous faisons servir de la propagande sur un blason royal.

Une prise de position claire et franche ne me poserait pas de problème, puisque le débat se forme bien souvent à partir de positions tranchées. Or, pour débattre, il faut être au moins deux. Et ce qui me paraît le plus aberrant, c'est le silence de MUNACA dans nos boîtes de courriels qui n'est dû qu'à l'interdiction de McGill d'utiliser le même système pour nous contacter. Mesdames et messieurs les administrateurs, prenez autant de positions que vous le voulez, mais jouez franc-jeu et laissez vos adversaires vous répondre par la même voie. Ainsi les étudiants pourront prendre connaissance des deux côtés de la médaille, faire la part des choses et forger leur propre opinion. Le **bâillon** n'est jamais une bonne idée.

J'ai donc envoyé un courriel à nos Officiers pour leur faire part de mes préoccupations et leur demander soit de cesser de m'envoyer de tels courriels, ou d'y tenir un propos objectif. On m'a répondu bien poliment que les courriels étaient à la discrétion de l'administration et qu'il était impossible d'enlever mon adresse de la liste. Soit. Mais je n'ai jamais approuvé une politique stipulant cela. J'ai approuvé une politique de communication par courriel qui est décrite en termes académiques et administratifs, jamais en termes politiques.

Je poursuis donc mon argumentaire avec l'administration, et vous invite à faire de même. « Nous sommes tous McGill™ », adhérons tous à des valeurs d'écoute, de respect, d'éducation et de sain débat il me semble. Et il m'apparaît également que le **bâillon-propagande** ne cadre pas avec ces valeurs. L'administration me dit que je suis le seul à m'opposer à ces courriels, alors unissons nos voix, et soyons McGill.

Notre McGill, pas celui qu'on nous impose.



VP-Academic

J.D. / LL.B. UPDATE

Au printemps dernier, 310 d'entre vous ont répondu à la question suivante :
« Appuyez-vous la modification du diplôme common law de LL.B. à J.D.?»
NB: Les résultats de ce vote ne sont pas contraignants sur la décision de la faculté.»

The results of the referendum were 212 in favour, 87 opposed, and 11 spoiled ballots. The Law Students Association was handed a clear mandate in the spring of 2011, which was to support the students and act as their voice to the Faculty with regards to the J.D/LL.B question. At this year's first LSA Council in September, it was resolved that the LSA would dedicate its resources, to the best of its ability, to advocate in favour of changing the name of our common law degree from LL.B to J.D. While the Law Students' Association recognized that the J.D/LL.B issue is complex, students had spoken strongly in favour of a degree name change. Par conséquent, la résolution en question fut présentée au Conseil de la Faculté vers la fin septembre, et comme vous l'avez deviné, plusieurs étudiants attendent impatiemment la réponse des membres de la Faculté.

Pour ceux et celles qui ignorent ce qui a été fait l'an dernier, voici une petite mise à jour. L'AÉD avait formé un comité dont le rôle était d'étudier de façon objective les arguments pour et contre une modification du diplôme de common law de LL.B à J.D. Les membres du comité, soit Julien Grenier, Gabriel Joshee-Arnal, Scott Horne, Marc-André Roy et Andrew Swidzinski, ont effectué une recherche et ont rédigé un rapport qui a été mis à la disposition des étudiants. Ce document avait pour but de fournir des éléments de réponse qui étaient parfois difficilement accessibles, et naturellement d'informer le corps étudiant de façon générale. Le rapport complet est toujours disponible, et une version abrégée (que je vous encourage à consulter) a été publiée dans le Quid du 29 mars 2011, aux pages 8-9 (http://quid.mcgill.ca/issues/2010-2011/v32no19.pdf). Au moment de la publication du rapport l'an dernier, 11 des 16 facultés de common law avaient adopté la désignation J.D. À ce jour, 14 des 16 facultés de common law au Canada ont complété le changement, et une 15e (Université du Nouveau-Brunswick) est en train de procéder au changement, ce qui laisse McGill seule à octroyer le LL.B.

Cette année, les membres de la Faculté et l'AÉD souhaitent collaborer pour examiner davantage la question du changement de nom de nos diplômes. An advisory group on degree names will be composed of students from different stages of their education at McGill Law. This student advisory group will be in contact with Faculty members in order to explore ways to gather and disseminate information on the J.D. This advisory group's mandate will not be to initiate a change to the names of our degrees, but rather to discuss the issues surrounding this change and lead further research and information-gathering initiatives.

En raison du mandat que lui a donné le corps étudiant en avril 2011, l'AÉD crée également un sous-comité (distinct du 'Student Advisory Group') dont le rôle sera d'étudier davantage les arguments en faveur du J.D, de peaufiner la recherche entamée l'an dernier pour appuyer ces arguments, et enfin de réfléchir concrètement à la réalisation de ce changement à la Faculté de droit de McGill. J'encourage les étudiants intéressés à communiquer avec moi par courriel (vp-academic.lsa@mail.mcgill.ca) dans les prochaines semaines afin de former ce comité de l'AÉD. Si certains d'entre vous souhaitent en discuter davantage avec les membres de l'exécutif, n'hésitez pas à venir faire un tour à notre bureau. Nous sommes ouverts à vos suggestions et nous voulons savoir ce que vous en pensez. Enfin, sachez que l'AÉD travaillera cette année à faire avancer ce dossier, mais nous avons besoin de votre participation ! I am honestly waiting for my inbox to be bombarded with emails about how excited you are to work with me on this project. Je compte sur vous !

RAPPEL : ENVOYEZ-NOUS VOS ARTICLES !

Deadline is every Thursday at 5 pm.

Important: include your name and year of study *in the body of the Word document.*

ALEXANDRE MICHAUD

CHRONIQUES HISTORIQUES

L'ANNÉE SANS ÉTÉ

Alors que nous entrons dans le mois de novembre, l'automne s'affirme de mieux en mieux sur nos latitudes, annonçant l'inéluctable hiver qui achèvera de nous transir avec des températures toujours plus rigoureuses. C'est vrai, le Québec ne jouit pas des hivers les plus cléments! Heureusement que la saison froide ne dure pas éternellement et que l'été revient toujours aussi sûrement qu'il part, n'est-ce pas?

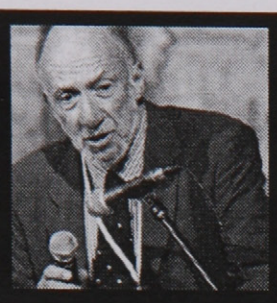
Ma foi, il y a hélas déjà eu quelques exceptions à ce cycle de la nature pourtant perçu comme immuable. En effet, il y a près de deux siècles, la planète connut un étrange phénomène météorologique : on enregistra partout des températures anormalement basses, et les variations climatiques les plus singulières. C'est ainsi que 1816 fut surnommée « l'année sans été ».

À l'origine de ces perturbations qui affectèrent profondément les populations de l'époque, surtout en Europe occidentale, en Nouvelle-Angleterre et dans l'Est du Canada, les scientifiques s'accordent pour désigner une éruption volcanique. Depuis 1812, la Terre avait effectivement connu une forte activité volcanique, mais c'est principalement le Mont Tambora, en Indonésie, qui aurait provoqué cette chute des températures en relâchant dans la haute-atmosphère d'incommensurables quantités de poussière et d'aérosols sulfurisés en 1815. Le rayonnement solaire s'en trouva partiellement bloqué, d'où les impacts climatiques qui suivirent dès 1816.

Alors que dans les régions les plus touchées, on était habitué à des printemps plutôt doux et à des étés chauds, on eut droit à la place à des rafales de neige et à de brusques chutes de températures. Un instant, la chaleur pouvait avoisiner les normales de saison, et chuter sous le point de congélation à peine quelques heures plus tard. À Québec, on reçut même jusqu'à trente centimètres de neige en plein mois de juin, après que deux blizzards aient causé la mort de nombreuses personnes dans la région, dans les colonies maritimes et dans le Nord-Est des États-Unis. Jusqu'en Pennsylvanie, on put voir de l'eau geler sur les lacs et les cours d'eau en juillet et en août. Les régions tropicales ne furent pas épargnées, puisqu'on rapporte des chutes de neige et du gel en Taiwan. En Europe, les cendres volcaniques firent tomber toute l'année de la neige rouge sur l'Italie, brune sur la Hongrie.

Il va sans dire que les conséquences de tels dérèglements climatiques furent catastrophiques. Beaucoup de récoltes furent détruites, à tel point que ce n'est ni une disette, ni une famine qui touchèrent l'Europe de l'Ouest et le Nord-Est de l'Amérique, mais une véritable crise alimentaire. Certaines céréales atteignirent plus de sept fois leur prix de l'année précédente, entraînant émeutes, pillages, épidémie, hausse de la mortalité et migrations importantes. Certains historiens attribuent d'ailleurs à l'année sans été les débuts de l'expansion américaine vers l'Ouest; de nombreuses familles de fermiers, dont les récoltes avaient été entièrement perdues, se sont effectivement établies dans le Middle-West à cette époque. À lui seul, le Vermont aura subit une émigration de 10 000 à 15 000 âmes. En Chine également, on fut atterré par le gel et les précipitations abondantes, qui gâchèrent les plantations de riz. L'inflation du prix de l'avoine affecta aussi profondément le reste de l'économie, alors basée sur le cheval.

Bref, 1816 fut une année chaotique, grise, froide, terrible. Seul aspect positif : la poussière volcanique contenue dans l'atmosphère provoqua des couchers de soleil particulièrement spectaculaires tout au long de l'année. Maigre consolation, sans doute.



hrwg

gamdp

McGill Centre for Human Rights and Legal Pluralism

Professor Richard Falk

Debating Drone Assassinations: The Rule of Law versus International Law

Nov. 14 | RM 312 NCDH, Faculty of Law, McGill University | 12:30 - 14:00

Law I

THE OPTIMIST

OCCUPYING THE CONVERSATION

PROTESTION AND THE OVERTON WINDOW

What's the point? It's a question that has plagued Occupy Wall Street and its affiliated international protests since they formed just over a month ago. At first blush, it's hard to say. When I visited the Occupy Montréal site two weeks ago, I was overwhelmed by the range of opinions on display: 9/11 conspiracies, calls for American financial reform, criticisms of Harper's crime mega-bill, general expressions of political frustration, a lone, very bored gentleman with a sign stating that 'CBC Radio is killing Libyan children'. I heard people singing union songs, others shouting down capitalism. None of these people spoke for the majority of the crowd, nor did they claim to, and it's this tolerance for cacophony that has made the whole movement so difficult for observers, even participants, to understand. At base, there is a profound unhappiness with the status quo, particularly in the division of wealth through society, but how it manifests is messy and chaotic. So the questions get asked. If they aren't asking for anything specific, what do they expect to get? How do we make sense of this movement?

Well, at the risk of briefly boring you, dear reader, political theory offers an excellent explanation. The Overton Window model, first put forward by – surprise surprise – one Joseph Overton, is a great way to conceptualize the accomplishments of a political movement, especially a messy one. It starts with the statement that any given idea or opinion lies somewhere along a spectrum. On the one end sit the uncontroversial ideas, those that are so broadly accepted by the public that they are almost beyond debate: the idea that a vote should not be bought or sold, for example. On the other end sit extremely controversial opinions, so controversial that to even bring them up in public conversation might get you in trouble. According to the theory, these opinions are "outside of the window" – they have no accepted place within public debate – while accepted, legitimate opinions are within it. Opinions are never fixed on this spectrum, however; they can move, or be moved, in and out over time.

The dimensions of the window have a huge effect on public policy in a democracy. They limit a government's range of acceptable responses to an issue, as a government can only deviate so far from what its citizens consider legitimate. Putting troops on the ground in Libya was, in Canada and the U.S., well outside of the window; other forms of assistance, however, were, while not uncontroversial, acceptable. They also limit those problems which a government will focus its attention on. No elected government with a sense of self-preservation will commit itself to a policy or concern that the voting public has no appetite for. As a result, it's very important to know what the limits of the window are on any given issue, for it is from there that government action will come.

In light of this, you can see political activism as an attempt to either move the window over to accommodate a particular idea or to move that idea into the existing window. In raising awareness of an issue, activists are trying to push their cause into the national consciousness and cement it as an acceptable idea or as a relevant problem to address. Populist movements are particularly effective at this. The Tea Party, Occupy Wall Street's spiritual-if-not-ideological predecessor, made deficits and debt a national priority where they hadn't been before. As unruly and disorganised as Tea Partiers seemed at times, they moved the window in a big way; they forced everyone, even the President of the United States, to address a problem they had identified. And now it's *Occupy Wall Street*'s turn.

In America, where the movement started, income inequality has reached a dramatic point. The top 1% of Americans own 42% of that country's wealth, more than the bottom 95% combined. Since 1990, CEO pay has gone up almost 300%, while, adjusting for inflation, the minimum wage has actually decreased. In Canada, we're doing better, but in terms of income inequality, we're on par with Greece, and being on par with Greece in anything right now should give us pause. These aren't new problems, but they've been outside the window for too long – we've ignored, for decades, the slow slide among developed countries towards greater income disparity, and all the dangers that brings with it. The Occupy movement is, in its own chaotic way, pulling them into the window, making them topics we need to consider, debate, and hopefully solve. In that sense, they're a success. They've provided the necessary first step; it's up to us, now, to keep going.

PHOTOS

MED/LAW HALLOWEEN PARTY

Photos courtesy of Golnaz Nayerahmadi

CARTOON

PATRICIA NOVA

Law I

BEVERLEY

UN/SOLICITED ADVICE

COFFEEHOUSE EDITION

Hey folks! We are back with a special coffeehouse edition. Before we delve into your questions, take note of a little Coffeehouse history...

Once upon a time, believe it or not, **coffee** was actually served at Coffeehouse. Even more interesting is the fact that coffeehouse used to take place in the common room of Old Chancellor Day Hall, an area of the faculty we only ever dream of entering. In 1987, Professor David Lametti (currently on sabbatical) changed it all. As president of the LSA, Professor Lametti decided to popularize the event by adding beer and making coffeehouse a regular Thursday event. As an article in the McGill Reporter points out "Beer Bonds Barristers." For an interesting take on the social dynamics of coffeehouse, Google Professor Manderson's article with Sarah Turner, "Coffee House: Habitus and Performance Among Law Students".

Dear Beverley,
Coffeehouse: I love it. I love it so much that the past couple weeks I've been one of the last people booted out of the Atrium. While it's a great time, I'm starting to wonder if maybe I'm overdoing it. Perhaps this is a faux pas for 1Ls - or any L for that matter. Can you please give some guidelines? How do you know when it's time to leave Coffeehouse?

- Very Intoxicated Nights

VIN,
Let us begin by spelling out what you already know. Coffeehouse is a B-L-A-C-K H-O-L-E. You spend a productive afternoon in the library, decide to reward yourself with one beer before heading home for the night (or, ugh, back to the Gelber, you keener), and before you know it, one turns into two and eventually you realize the servers are pushing you out of the way with their mops. While we're not math majors – or doctors – it's logical that your productivity will only decrease as your beer consumption increases (especially if you are on board the traditional "Thomson House à St. Laurent à La Banquise" train). No chance you will be getting any more work done for the night, and best of luck getting up for DDB the next morning. But you know what? Coffeehouse has a good atmosphere for meeting people from other years, talking to your classmates, and in general, it assists in balancing your social life with school work. While we don't necessarily advocate the full Coffeehouse blowout every week, go and have fun! Relax. As long as everyone's having a good time, stick around and support the clubs. Bond over beer!

Dear Beverley,
Even before I started at McGill law I could imagine sipping free wine and indulging in Schwartz's in the Atrium. Coffeehouses seem to be keeping me sane; Thursday afternoons have become the highlight of my week. I've been told as the year goes on, the frequency of sponsored coffeehouses will only increase. While I'm a sucker for free things, I'm worried about what the word "sponsored" means. Does sponsored imply that I will be in the presence of real lawyers - aka prospective employers!?! The thought makes me nervous. Does this mean that I should actually know something about the law? How can I network when I'm still stumbling over all the legal jargon (I just found out what a "litigator" was last week)? What about dress code: Suit jacket- too much? Flannel jacket- not enough? Advice. Please.

- Don't Know! Need You

DKNY,
The word 'sponsored' will soon be music to your ears. If you are already a fan of regular coffeehouses, just wait till the sponsored ones ramp up! While it is true that there will be real lawyers present, the reality is that the number of law students far outnumbers the number of lawyers. So if you feel shy or uninterested, it is possible to make it through a sponsored coffeehouse (or all of them, depending on your ability to nimbly turn on a dime without spilling a drop of wine) without ever confronting a lawyer face to face. That being said, coffeehouses are a great place to informally network with some interesting people. Don't worry about the legal jargon, these "real lawyers" are also real people - go figure. They are not here to test you on your knowledge about constitutional law or discuss the formation of a contract; they're here to talk to you about their work, their firm, and all the "spare time" they have to play recreational sports. As for dress code, there is no pressure to dress up. But if you're interested in networking, perhaps throw on a blazer with your jeans or wear some kitten heels or a sombrero. It's like a first date - look like you made some effort, but not too much.

Well folks, that's all for this week's Un/Solicited Advice. We don't have much to say without you, so please write in to **dear.beverley@gmail.com** - no question too silly! No comment too inane! No offer of a date will be left unconsidered!

xo,
Bev

OVERHEARD AT THE FAC

At the LSA AGM...
1L: There is something called CH expenses in your budget...
VPs Internal: Coffeehouse expenses.
1L: Oh! I thought it meant Canadiens de Montréal expenses.
[*See what you miss when you miss the AGM? -Ed.*]

3L: Civil law isn't like the common law where you magically wave a wand around and tap a hat and up pops a rabbit.

3L: Common law is like asking a really hot girl out: there's always a chance something's going to happen but most likely it's not.

Prof. [redacted]: Someone in the course evaluations described answering questions in my class as throwing oneself under a bus.

Prof. Gold: Cml likes property and doesn't like dead people telling us what to do.
I have a feeling the Quid will have this quote... though maybe I just jinxed it.

Prof. Leckey: Let's pull back and ask ourselves, "Did Leckey draft these instructions on envelope paper five minutes ago, or did some thought go into it?"

Prof. Leckey: You should hear my voice speaking to you through the syllabus.

Prof. Khoury: My knowledge of criminal law comes from CSI.

Prof. Muniz-Fraticelli: Any U.S. case involving baseball is bound to be an exception to the rule. The Americans, they just throw the Constitution out the window when it comes to baseball.

Prof. Muniz-Fraticelli: When you get eccentric CEOs, you get sued. So you want people like Warren Buffet, who are boring...

Prof. [redacted]: I'm bleeding, how did this happen? Did I just get bitten by an alien creature? Sorry, timeout here.

Justice Healy: Alas! I have parked my car on the police officer's foot.

Prof Gold: My feelings is once you've been in law school for 8 months, there's no going back. Game over: you're a lawyer.

Me Lamed: I was at a conference with all the Legal Ethics teachers — there aren't many of us, we can fit into the back room of a restaurant.

Prof. Moyse: Si vous avez "C" vous allez être déçus et vous allez prendre deux fois plus de bière en sortant!

Prof. Moyse: Le mariage est une aventure. Mariez-vous! Ceux qui se marient sont les plus téméraires.

Prof. Gold: I like common law: it's a contradiction.

Prof Adams: I'm not an agricultural person. I'm a city person. I don't know how far you can cross-pollinate.

Prof. [redacted]: You can call it a spade... but in law we will call it a HO!
[*Did a prof really say this!? -Ed.*]

Prof. Muniz-Fraticelli: American Apparel... They sell themselves to a special demographic that cares about labour rights but not about sexual objectification.

Prof. Gold: By the time you graduate, the Supreme Court will have eliminated half the rules you learned.

Prof. [redacted]: Le prof [redacted] est spécial. Lui, il me trouve spécial aussi.

Prof. Gold: It was cited in the Quid so it must be true — though I don't know if things need to be true to be cited in the Quid.

SEND YOUR OVERHEARDS!

quid.overheard@gmail.com

SPOTTED...

Oxford with those marks. He was not the brightest light in the room.

2L: I don't think I can start reading the news and understand, there's so much that came before!

1L: Lorsqu'il parle, j'ai l'impression qu'un Patronus enchanté se répand dans la classe.

2L: This class might be more interesting if you took on an Oxford accent
Prof.: I'm sorry, it will remain boring.

Prof., taking attendance: Votre nom, monsieur...?

ted more in the Overheards!

Prof. Leckey: My opinions are in newspapers and law reviews.

Prof. Muniz-Fraticelli: Presumably, the person you're entering into business with has more money than what they're giving you. Otherwise they're stupid and you shouldn't be entering into business with them.

Prof. Gold: It makes no conceptual sense: if this judge were in my class writing an exam, he would get a low mark.

the client? (class laughs) Tl
the time!

Prof. Gold: When you invite
dinner, you're really saying,
place and I won't sue you for

Prof. Gold: Imagine this room
ned wasteland—which some
is sometimes.

Prof. [redacted]: Today's mater
pretty hot.

2L: If the evelator took any long
pregnant: that's me in *20 years*
first boyfriend!

It took me four years to get in the Quid!

ENVOYEZ-NOUS CE QUE VOUS ENTENDEZ !

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Photo reporting by Courtney Retter, 4L, former Quid EIC!